

SENATE FINANCE, WAYS, AND MEANS COMMITTEE

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Joint Resolution No. 142* <HB>

by deleting the preamble and resolving clauses in their entirety and substituting instead the following:

WHEREAS, in passing the Telecommunications Act of 1996, Congress acknowledged the rights of states to regulate intrastate telecommunications and the rights of state and local governments to manage public rights-of-way in a competitively neutral and nondiscriminatory manner; and

WHEREAS, in most areas of governmental concern, state and local governments possess both the Constitutional authority and the competence to manage public policy issues, including the management of public rights-of-way, within their respective jurisdictions; and

WHEREAS, the Federal Communications Commission (FCC) has agreed to review petitions from telecommunications service providers that challenge the authority of state and local governments to manage public rights-of-way and to receive compensation for their use; and

WHEREAS, such action by the FCC runs counter to the expressed intent of Congress that nothing in the Telecommunications Act pertaining to rights-of-way shall impede the taxing and regulatory authority of state and local governments; and

WHEREAS, federal laws and regulations that interfere with state and local government rights-of-way powers should be restricted to only those powers delegated to the Federal Government by the Constitution of the United States; and

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WHEREAS, a federal preemption of state and local authority to manage rights-of-way will have far-reaching impacts on local government revenues, land use policy and zoning authority, which is counter to the intent of Congress in enacting the Telecommunications Act of 1996; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE-HUNDREDTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE HOUSE OF REPRESENTATIVES CONCURRING, That the Congress of the United States of America is hereby encouraged to exercise its oversight and legislative authority to urge the Federal Communications Commission to maintain the traditional regulatory balance between the states and the federal government and to recognize and support the authority of local governments to manage public rights-of-way, to provide access to such rights-of-way on a non discriminatory basis, to maintain control over zoning and land use, and to receive fair and reasonable compensation for the use of public rights-of-way.

BE IT FURTHER RESOLVED, That Tennessee's Congressional Delegation is urged and encouraged to amend both the Federal Telecommunications Act and rules and regulations of the Federal Communications Commission to give local governments authority over their own rights-of-way.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be prepared for presentation to each member of Tennessee's Congressional Delegation, the President and Vice President of the United States, and the Governor of the State of Tennessee.

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